



Paper No. 6

**COPY MAILED**

**FEB 16 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

Charles Russell Cypher  
405 14th Street  
Suite 1607  
Oakland, CA 94612-2747

In re Application of  
William F. Leek  
Application No. 09/729,491  
Filed: December 3, 2000  
Attorney Docket No. SST/1035

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed January 3, 2001, requesting that the above-identified application be accorded a filing date of December 3, 2000, instead of the presently accorded date of December 4, 2000.

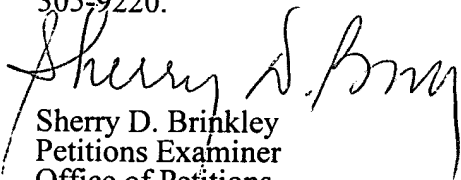
Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service, on December 3, 2000. In support, petitioners provided a copy of the Express Mail label, receipt no. EL668416864US, showing a Date-In of December 3, 2000. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Petitioner requests that the application be accorded a filing date of December 3, 2000.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 3, 2000.

The petition is granted. Since the petition was a result of PTO error, the \$130.00 petition fee is being refunded to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to December 3, 2000.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-9220.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects